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U.S. DISTRICT COURT  
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S.D. OF N.Y.W.P.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address  
96.250.77.69,

Defendant.  
-----X

Civil Action No. \_\_\_\_\_

**COMPLAINT – ACTION FOR  
DAMAGES FOR PROPERTY  
RIGHTS INFRINGEMENT**

15 CV 0584

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address  
96.250.77.69, and alleges:

**Introduction**

1. This matter arises under the United States Copyright Act of 1976, as amended, 17  
U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed,  
Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the  
copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the  
“Copyrights-in-Suit”).

**Jurisdiction And Venue**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §  
1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair  
competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

#### **Parties**

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

#### **Factual Background**

*I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights*

11. The BitTorrent file distribution network (“BitTorrent”) is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent’s popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer’s BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit (“bit hash”) acts as that bit’s unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value (“file hash”), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first publication, registration date, and registration number issued by the United States Copyright Office

is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

**Miscellaneous**

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

**COUNT I**  
**Direct Infringement Against Defendant**

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the works audible and transmitting said performance of the works, by means of a device or process, to

members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

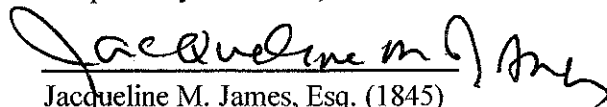
(F) Grant Plaintiff any other and further relief this Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Jacqueline M. James", is written over a horizontal line.

Jacqueline M. James, Esq. (1845)

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*Attorneys for Plaintiff*

## File Hashes for IP Address 96.250.77.69

ISP: Verizon FiOS

Physical Location: White Plains, NY

Hit Date UTC	File Hash	Title
12/10/2014 00:22:04	6441A805D07567E8208AB18F2A8467FACE02C507	I Want You To Want Me
12/04/2014 03:40:22	7BB6BFB5AF649AE2F9B8A574BD2B4FF61D8D5069	Forever You Part #2
11/28/2014 22:56:33	5D11DD2AD557DB58C2E9F90507DF779F437CF56F	Light My Fire
11/22/2014 13:58:45	88880BA49BE6AECD218F30F515D301C1527CF1D2	Fuck Me More
11/19/2014 23:10:09	3B20BDCD57E98A0FBECB612F60D7057D9BDAC50C	Tight and Wet
10/13/2014 23:05:44	A8EDCCA5C0D4A7401411BEDFC2E27080AF23BCF6	Spanish Heat
09/28/2014 23:29:42	DA393152CDD6EC6C75F60E463CEA3C2C0C23FB13	Cat Fight
09/20/2014 17:22:34	94690606D9F905C95C7048C05C47E06BF146C745	Fun For Three
08/28/2014 22:50:38	95B4E4CC01E2CBB87C987ADB2216565DD1416C32	Taste Me
08/13/2014 22:57:42	63FC12CDDF5DBE0304B7EBD6AC3B0435D01B358C	For Your Eyes Only
08/07/2014 22:49:29	67D8723F0E28AE1CAC8572FBCAF7334CCAC075B2	Breakfast At Eves
08/03/2014 00:42:08	874A2891B4C21EDF0EF1C4DFA7AB0FC082648EC5	Any And All For You
07/03/2014 01:29:37	490E7EA3913E2C780D5A3CE63F905003F98B7C86	Coming Late
07/03/2014 00:59:19	D5607606B508A6767D2B3CA42B08927EA427F4C2	Lovers Way
07/03/2014 00:52:31	6E5259F6AADAC1704B9216D411C5A85429196E3F	Give Me More
07/03/2014 00:50:22	42146DAB79DD68F191F7D7F3CA6E02B0EC842F27	Enjoy My Backdoor
07/03/2014 00:48:05	70096782852F9ECDC39E57E98DC415B1C1721071	Rope Priority
07/02/2014 00:41:32	66240EA4FE9970A3BE7B99E9A97EE10D833DF60F	Hot Orgasm
07/02/2014 00:12:44	14D6169A02F26B556F199318D5D88176549E6A3C	Go Down On Me
07/01/2014 22:39:58	66FC06DFFE0813C23F4BA7D569AB95F64D382283	Sexy In The City

Total Statutory Claims Against Defendant: 20

EXHIBIT A

SNY90



## Copyrights-In-Suit for IP Address 96.250.77.69

ISP: Verizon FiOS

Location: White Plains, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
I Want You To Want Me	PA0001925335	12/06/2014	12/10/2014	12/10/2014
Forever You Part #2	PA0001923966	11/30/2014	12/08/2014	12/04/2014
Light My Fire	PA0001923961	11/28/2014	12/08/2014	11/28/2014
Fuck Me More	PA0001923957	11/22/2014	12/08/2014	11/22/2014
Tight and Wet	PA0001923176	11/19/2014	11/23/2014	11/19/2014
Spanish Heat	PA0001917709	10/13/2014	10/19/2014	10/13/2014
Cat Fight	PA0001916043	09/26/2014	10/06/2014	09/28/2014
Fun For Three	PA0001914731	09/19/2014	09/22/2014	09/20/2014
Taste Me	PA0001912773	08/27/2014	09/17/2014	08/28/2014
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	08/13/2014
Breakfast At Eves	PA0001909480	08/06/2014	08/26/2014	08/07/2014
Any And All For You	PA0001908677	08/02/2014	08/11/2014	08/03/2014
Coming Late	PA0001904286	06/19/2014	06/24/2014	07/03/2014
Lovers Way	PA0001905141	06/21/2014	07/02/2014	07/03/2014
Give Me More	PA0001904311	06/17/2014	06/24/2014	07/03/2014
Enjoy My Backdoor	PA0001904149	06/13/2014	06/19/2014	07/03/2014
Rope Priority	PA0001895760	05/11/2014	05/16/2014	07/03/2014
Hot Orgasm	PA0001903922	06/03/2014	06/12/2014	07/02/2014
Go Down On Me	PA0001904131	06/11/2014	06/19/2014	07/02/2014
Sexy In The City	PA0001905511	06/27/2014	07/02/2014	07/01/2014

Total Malibu Media, LLC Copyrights Infringed: 20

EXHIBIT B

SNY90